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April 26, 2018

**Via ECF**

The Honorable Paul A. Engelmayer  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2201  
New York, New York 10007

Re: *In re: Interest Rate Swaps Antitrust Litigation*  
Civil Action No.: 16-MD-02704 (PAE)

Dear Judge Engelmayer:

I write on behalf of Tradition America LLC's ("Tradition") in regard to the Court's Order of April 24, 2018 (Document 370) (the "Order"), by which the Court presented certain observations and directed Tradition to undertake certain activities. We treat them *seriatim* below.

The Court observed (Order ¶ #4, p.2) that "the Court is concerned by class plaintiffs' suggestion that Tradition has been more cooperative with defendants' discovery demands than with the Plaintiffs'." We too have seen that allegation, but, unfortunately, it is not true. Tradition has worked very hard to be fairly balanced to all parties in the same way; the volume of transmissions with all the attorneys reflects precisely that. The difference in result, as opposed to effort, is that Defendants are focused on trade and pricing information (a large set of data to be sure, but limited in perspective to two subject categories). In contrast, the Plaintiffs have sought and are continuing to seek multiple subjects of information that require multiple executives at Tradition to address and multiple sources to mine for responsive documents. The second reason why Defendants have been more successful in obtaining data is one of approach; Defendants have labored more to reach compromises and design workable solutions to difficult problems, whereas the Plaintiffs have been more bellicose and unfortunately largely unresponsive to Tradition's technology realities.

The Court then directed (Order ¶ #1, p.2 bottom) that "Tradition's document production to the defense be produced forthwith to Plaintiffs..." Prior to this Order, as referenced in Tradition's Letter Response to the court (Document 369), we had informed the Court that: "These documents are now being shared by all the parties, we are informed. (Ex B)" Since the Court's Order, we re-engaged with Defendants about their sharing of the

documents Tradition produced to them, and have been assured that all such documents had already been shared with the Plaintiffs.

The Court further directed that “documents sufficient to disclose the parameters used to guide that search (e.g., search terms)” be produced as well. Unfortunately, however, that is a concept not applicable to the production to Defendants, as opposed to the requests made by the Plaintiffs. The methodologies employed by Tradition to fuse together from broad swaths of raw pricing and trade data, to the extent kept by Tradition, into electronically formatted spreadsheets containing categories that Defendants have requested, did not and does not entail any search terms or otherwise relate to the efforts that need to be undertaken with regard to Plaintiffs’ multiple requests—some of which require the use of search terms. The two projects immediately being simultaneously addressed are significantly different and have virtually no overlap (unfortunately for Tradition). Accordingly, we do not believe that the mechanisms Tradition employed internally to locate, extract, and organize (as per the constituents requested by Defendants) data responsive to Defendants requests, are relevant at all to what needs to be done with respect to Plaintiffs’ search terms requests.

The Court further directed (Order ¶ #1, pp.2-3) that “Tradition notify the Court... as to the amount of time and cost that compliance with Defendants’” discovery demands imposed... .” The following is that analysis:

Regarding Production to Defendants:

<b>Tradition Employee</b>	<b>Tradition Hourly Cost<sup>1</sup></b>	<b>Hours on Case<sup>2</sup></b>	<b>Total Cost</b>
CTO	REDACTED	REDACTED	743.84
CFO	REDACTED	REDACTED	1,398.37
Operations manager	REDACTED	REDACTED	903.49
Admin assistant	REDACTED	REDACTED	2,785.16
CLO	REDACTED	REDACTED	57,901.79
CCO	REDACTED	REDACTED	1,073.97

<sup>1</sup> We have redacted the information in this column due to privacy concerns. We will offer the Parties a un-redacted version of this information subject to the Protective Order and the Highly Confidential provisions embodied therein. An unredacted version will also be available to the Court at the Hearing or sooner if the Court so desires and appropriate confidentiality concerns are addressed.

<sup>2</sup> See footnote 1 above.

Senior SEF Regulatory Counsel	REDACTED	REDACTED	946.25
Assistant CCO	REDACTED	REDACTED	2,233.87
CAO SEF	REDACTED	REDACTED	3,646.45
SEF Surveillance	REDACTED	REDACTED	368.16
CEO SEF	REDACTED	REDACTED	852.84
<b>TOTAL</b>		<b>176</b>	<b>\$72,854.21</b>

#### Outside Paralegal Costs

Outside Clerk Charges	50.00	12.00	600.00
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The Court further directed (Order ¶ #1, pp.2-3) that “Tradition notify the Court... the date and aggregate volume of Tradition’s production to the defense.” That information is as follows:

<u>Bates Range</u>	<u>Bank</u>	<u>Nature of Document</u>	<u>Date Produced</u>	<u>Size</u>
TradSEF-JPM_Sub 000001-7	All	Traditon SEF Customer Lists	3/07/2018	1.3 MB
TradSEF-JPM_Sub 000008-000231	JP Morgan	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	3/26/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 000232-00816	JP Morgan	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	3/26/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 00817-001040	Morgan Stanley	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	3/27/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 001041-001678	Morgan Stanley	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	3/27/2018	15.4 MB for all Trade confirmations



TradSEF-JPM_Sub 001679-002041	Citigroup	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	3/27/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 002042-002839	Citigroup	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	3/27/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 002840-003089	Bank of America	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	3/28/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 003090-003473	Bank of America	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	3/28/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 003474-003567	Goldman Sachs	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	3/28/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 003568-003765	Goldman Sachs	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	3/28/2018	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 004045-004288	Credit Suisse	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	Not delivered*. <sup>3</sup>	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 004289-004385	Credit Suisse	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	Not delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 003766-003837	Deutsche Bank	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	Not delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 003838-004044	Deutsche Bank	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 004386-004468	BNP	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 004469-004843	BNP	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	Not Delivered*	15.4 MB for all Trade confirmations

<sup>3</sup> \*These trade confirmations were requested by the Defendants, prepared for production and are available for pickup from Tradition. However, Defendants requested to halt this production at the moment as they seek different formatting, categories and electronically delivered (as opposed to hard-copy) data.

TradSEF-JPM_Sub 004844-005037	UBS	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 005038-005198	UBS	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 005199-005611	Barclays	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 005612-006544	Barclays	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 006545-006701	RBS	Trade confirmations that relate to the week of 11/15/2012-11/24/2012	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 006702-006830	RBS	Trade confirmations that relate to the week of 11/17/2014-11/21/2014	Not Delivered*	15.4 MB for all Trade confirmations
TradSEF-JPM_Sub 006831	JP Morgan	IRS SEF consummated trade data from February 2014 through the end of March 2018 formatted as requested by Defendants	4/25/2018	102 kb (268 trades)

Tradition is producing tomorrow IRS SEF consummated trade data involving Barclays Bank from February 2014 through the end of March 2018 formatted as requested by Defendants. The same type of data will then be produced early next week with respect to Bank BNP Paribas followed shortly thereafter by Tradition data for each of the remaining Bank Defendants.

The Court further directed (Order ¶ #2, p.3) that “Tradition disclose the ‘hit rate’ data sought by Plaintiffs.”<sup>4</sup> That information, for both the prior terms presented by Plaintiffs and the new terms just disclosed, is attached hereto as Exhibit A.

<sup>4</sup> Tradition assumes that the Court did not intend Tradition to pay the outside vendor who has access to emails prior to April 4, 2012 to run hit count searches. As the Court may recollect, in Tradition’s April 20, 2018 Letter to the Court (Document 369), Tradition alerted the Court what it had previously presented to Plaintiffs:

“Second, Plaintiffs seek documents “from July 21, 2010 to April 4, 2012 responsive to the search terms. (Pltffs Ltr p.3) But, the Court noted already that: “it is important that requests for discovery as to pre-2013 events be critically evaluated for relevance and that any discovery that is ordered be carefully tailored to viable

Although the Court did not direct to do so, Tradition believes it is relevant to the Parties' respective understanding of the costs borne by Tradition to date and to any future proposal to defray costs, to present the costs incurred by Tradition with respect to extracting the data requested of Tradition by Plaintiffs as well.

Regarding Plaintiffs' Demands:

<b>Employee</b>	<b>Tradition Hourly Costs<sup>5</sup></b>	<b>Hours Case<sup>6</sup> on</b>	<b>Total Cost</b>
CTO	REDACTED	REDACTED	1,168.89
CFO	REDACTED	REDACTED	1,398.37
Operations manager	REDACTED	REDACTED	903.49
Admin assistant	REDACTED	REDACTED	417.77
CLO	REDACTED	REDACTED	55,111.35
CCO	REDACTED	REDACTED	626.48
Senior SEF Regulatory Counsel	REDACTED	REDACTED	5,677.52
Assistant CCO	REDACTED	REDACTED	8,278.48
CAO SEF	REDACTED	REDACTED	11,199.83
MD Strategic Businesses	REDACTED	REDACTED	1,389.42
CEO SEF	REDACTED	REDACTED	2,984.95

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theories of relevance.” (Order, p. 3, Doc. 322) ... These emails, however, are not at Tradition but reside on computers of a former third-party vendor who seeks payment for retrieval of whatever may still exist as per our communications to the Plaintiffs. (Ex G)”

<sup>5</sup> See footnote 1 above.

<sup>6</sup> See footnote 1 above.

<b>Total</b>		<b>263.00</b>	<b>\$89,156.55</b>
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**Outside Paralegal Costs**

Legal Clerk	50.00	62.50	3,125.00
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**Outside Vendor Costs: \$1,200.00**

Tradition trusts that we have complied with all the Court's concerns and directives. If we have missed anything, we have done so inadvertently and apologize for that.

Respectfully Submitted,

/s/

Chaim A. Levin

cc: All relevant counsel